

# WASHINGTON STATE GAMBLING COMMISSION

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## MINUTES COMMISSION MEETING THURSDAY, MARCH 12, 1998

**Chairman Ludwig** called the meeting to order at 2:30 p.m. at the Holiday Inn, SeaTac, Washington.

**MEMBERS PRESENT:** CURTIS LUDWIG, Chairman; EDWARD HEAVEY; MARSHALL FORREST; and PATRICIA L. HERBOLD

**OTHERS PRESENT:** BEN BISHOP, Executive Director;  
SHERRI WINSLOW, Division Director, Field Operations;  
CALLY CASS-HEALY, Division Director, Licensing Operations;  
CARRIE TELLEFSON, Division Director, Policy, Planning and Support;  
DERRY FRIES, Division Director, Special Operations;  
DAN JOHNSTON; Special Agent, Financial Investigations Unit;  
JONATHAN McCOY, Assistant Attorney General; and  
SUSAN GREEN, Executive Assistant

**Chairman Ludwig** said the meeting is starting an hour late due to staff attendance at a memorial service for Commissioner McLaughlin's husband, who passed away recently.

### LICENSE APPROVALS

#### NEW LICENSES, CHANGES, WITHDRAWALS AND TRIBAL CERTIFICATIONS

**Commissioner Heavey** moved to approve the new licenses, changes, withdrawals and tribal certifications as set forth on pages 1 through 23. **Commissioner Herbold** seconded the motion.

*Vote taken; motion carried with four aye votes.*

### FORMAL REVIEW

#### **NORTHWEST AMATEUR HOCKEY ASSOCIATION, Mountlake Terrace**

**Dan Johnston**, WSGC special agent, said this organization was formed in 1978 and licensed with the Commission since 1979. The organization provides instruction in physical activity, good sportsmanship, discipline, respect for authority, and competitiveness through the growth of amateur hockey.

Northwest Amateur Hockey Association was organized around its 85 active members. The association is governed by a 12-member board, including three officers. Additionally, the organization is served by a full-time executive Director, 4 part-time employees totaling 2 FTEs and 15 volunteers who are directly involved with the providing of program services. The organization convened 5 meetings during the last fiscal year.

The staff's compliance analysis of the organization's performance with regard to the threshold issues of combined net return, excessive reserves, and significant progress yielded the following results: As a holder of a Class "K" bingo license, the organization was required to achieve a combined net return of 14 percent. However, as a result of the organization's 12.1 percent net return total, it was issued a Notice of Intent to Limit License for this violation. If in due course the organization's license is limited in this manner, Northwest Amateur Hockey will operate at a "J" Class, with a required net return of 12 percent. The organization's year-to-date net return, as of December 31, 1997, was 7.5 percent. Consequently the organization posted a deficiency of expenses over revenue in the amount of \$57,601. This necessitated the use of cash reserves in order to fund program services.

However, on the remaining two counts of excessive reserves and significant progress, the organization was in full compliance.

Given that the organization is appearing before the Commission for a formal review, Mr. Johnston deferred to the members of the organization present to provide information relating to program services. The staff recommends Northwest Amateur Hockey Association be approved as an athletic organization and authorized to conduct gambling activities in the state of Washington.

**Buck Dentinger**, president and executive director of NWAHA, read the organization's mission statement: "Northwest Amateur Hockey Association is dedicated to encourage and promote the dynamic growth of amateur hockey and other youth-oriented activities, in accordance with the accepted youth movement objectives." He said their goal is to work together as an organization with pride and commitment from the players, coaches, families and staff of NWAHA, and to provide a positive and enjoyable atmosphere while promoting personal growth through team development both on and off the ice.

**Mr. Dentinger** said their goals and objectives were to develop excellence in all participants through the "fastest game on earth". He said they were trying to teach physical skills, fair play, discipline, player development, coach development, and parent/senior involvement while at the same time the NWAHA provides the financial foundation.

**Mr. Dentinger** said the NWAHA was started in 1957 by a pioneer who is legendary in U. S. Hockey circles, Mr. Andy Anderson. He was a mentor for many Seattle youth and recently passed away in March of 1995 when Mr. Dentinger became president. They have a midget AAA team, ages 15 to 19; a pending AA team, ages 14 to 19; a senior men's league, ages 19 to 55 years; and two financially self-supportive senior men's travel teams, one for ages 19 to 35 and another for ages 25 to 55.

**Mr. Dentinger** said that during 1997, the organization's accomplishments included developing 14 players who are now currently coaching at the youth level (these were developed within the three local hockey organizations in the greater Seattle area). He said most of the coaches in all of the organizations have come through the program and that is one of their biggest benefits of what they do today. He said they have three graduating Midget AAA players that have been offered full or partial college scholarships. They have a number of players who will move on into senior A Hockey, which is equivalent to the Seattle Thunderbirds. Their senior men's hockey team has placed in charity games this year, which have raised money for disabled children. They have also assisted their sister organization, Seattle Junior Amateur Hockey, with auctions and fundraising for the youth.

**Mr. Dentinger** said they had \$220,000 in bingo transfers to hockey last year, which is down \$20,000 primarily because bingo attendance has been down. It averaged about 13 people per session, which accounts for the \$20,000 in transfers from the year before. They hope to cut the tremendous annual ice cost down in the 1998/00 season from \$105,000 per year 20 percent or approximately \$21,000. In the interests of financial stability, they sold the hockey vans that were no longer needed, have cut travel costs considerably and will save an additional \$15,000 next year. They have many challenges for the 1998-99 year. They are going to pursue the midget AAA team, which fits in with their goals of what they want to do with their youth organization; they will continue to cut costs by another 20 percent in their hockey budgets, part of which will be done by renegotiating their ice contract. Their main goal is to take their midget AAA to the national championship, which looks promising. They hope to increase their senior league from 4 teams currently to 5-6 teams; and they need to and will pursue additional fund raising methods such as car washes and raffles. They raised a considerable amount for next year already through an alumni game two weeks ago. They have golf tournaments scheduled in May. Those profits will go to their organization for next year.

**Mr. Dentinger** said that they look forward to overseeing the overall operation of the bingo, from himself right through the Board of Directors down to Rick Beadle, their bingo manager, in accordance with and compliance to all the rules and regulations of 501(c)(3). They will monitor all budgets and controls on spending of non-profit funds, focusing primarily on their AAA team and secondarily on their AA team. Out of that they hope to cultivate coaches and managers from the senior league to again give back a lot of their talents such as coaching abilities to the minor organizations and the younger kids coming up through the programs.

**Chairman Ludwig** asked if the reduction in their hockey costs by \$20,000 and the \$20,000 ice cost reduction were the same \$20,000. **Mr. Dentinger** said that the \$20,000 reduction would come from a combination of reducing some salaries, cutting travel costs including the vans and gas for the vans. They estimated that their ice cost needs would not be as great. They will be passing on some of their costs to the parents and other organizations. He said it was kind of two as one, but there will be different ways that they cut in both areas.

**Chairman Ludwig** asked about the drop in gambling revenue, which is down by about \$30,000 since the prior year. **Rick Beadle**, bingo manager, said that the main reason was that a new bingo operation opened 10 miles from them in February 1997. He said that he and other bingo managers agree that the players don't want to travel when they have a game closer to home.

**Commissioner Herbold** noted that their six-month return was showing right now at 7.5 percent and wondered if staff thought they would be able to get it up to 12.1 percent if they reduced them to a Class "J". **Ms. Cass-Healy** said the process called for them to be reduced in steps and, therefore, they have a chance to come into compliance during each step, so they would be reduced a maximum of two classes to begin with. The second time it may be as far as needed to get down into the area where they are actually complying – the actual percentage that they are making.

**Mr. Dentinger** introduced the board members of the NWAHA, Dave Muhr, Deb Anderson and Ralph Jorstad. **Chairman Ludwig** thanked them for being here.

**Commissioner Forrest** moved to approve NWAHA as an athletic organization and authorized to conduct gambling activities in the state of Washington. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with four aye votes.*

## **QUALIFICATION REVIEWS**

### **RESIDENCE EAST, Renton**

**Mr. Johnston** said this group was organized in 1973 and licensed with the Commission since 1994. Residence East has dedicated itself to the assistance of developmentally disabled adults. More specifically, the organization seeks to provide learning skills in order that these individuals may live their lives independently in their homes, work, and communities. To this end, Residence East provides training and residential services through a mix of in-home support and the operation of adult group homes. Currently, the organization operates 4 program sites and supports 27 individuals with full-time in-home care. In terms of recent successes, 6 individuals were successfully relocated from a state institution into a new Intensive Tenant Support Program that is operated by Residence East on a 24-hour, 7-day-a-week basis. This program allows individuals to actively participate in the community, while still maintaining access to medical services in their home.

**Mr. Johnson** said that Residence East has 24 active members and is governed by a 14-member board, including 4 officers. The organization has a full-time executive director, 45 employees totaling 40 FTEs, and 3 volunteers. Twelve meetings were convened during the last fiscal year. For the fiscal year ended June 30, 1997, the organization was in full compliance on all counts, in the areas of combined net return, excessive reserves, and significant progress. Specifically, it achieved a 10.6 percent combined net return total, in excess of the 10 percent required of a Class "I" bingo license holder. Their year-to-date net return, as of December 31, 1997, was 9.3 percent. Additionally, the organization did not accumulate excessive reserves. Finally, the organization made significant progress toward its stated purpose by ensuring the 60 percent of gambling proceeds were expended on program services, while supporting services were maintained at less than 35 percent of functional expenses.

Based on the foregoing, the staff recommends Residence East be approved as an educational organization and authorized to conduct gambling activities in the state of Washington.

**Chairman Ludwig** asked if the organization had engaged in gambling activities before 1994. **Mr. Johnston** said he was aware only that they began their gambling activities as of 1994. **Chairman Ludwig** said he liked the idea

of this organization because they were as old as the Washington State Gambling Commission, which was also formed in 1973, and he thought maybe they formed then to be licensed.

**Chairman Ludwig** also noted that their gambling revenue is really a small part of their total income. He was pleased to find that the amount of taxes paid by the organization was noted because he thought it was an impressive figure. He wondered if, as an educational organization, they had to pay income tax. **Ms. Cass-Healy** said the gambling activities business was considered to be unrelated to its nonprofit purpose.

**Commissioner Heavey** pointed out that more than 60 percent of the gambling proceeds were spent toward providing program services and supporting services expenses were less than 35 percent of functional expenses. He said they have a total gambling revenue of \$123,500 and their salaries are \$103,000 and even if they take the executive director's salary out, that still would be a third of the bingo and gambling activities going to pay their manager and wondered if that were appropriate.

**Director Bishop** responded that the bingo manager's salary would be a part of the \$240,000, which would not be part of the \$123,500. The executive director's salary could also be part of that, but probably had more to do with program services. The only way they can figure it to see about the substantial progress is by saying they spent \$591,000 for programs and they had a total \$724,000 so they just figure if they spent \$120,000 of the gambling revenue or so, that whatever percentage of the total income gambling is, it's also that same percentage of the program services so, therefore, when that came out, it computed to be more than 60 percent.

**Commissioner Heavey** asked if that meant that the \$53,857 would be part of the \$145,261. **Director Bishop** said that was correct. **Commissioner Heavey** wondered if the \$47,315 was part of that or not.

**Director Bishop** said that staff could figure it out through the reports. He said there was no reason to do that unless someone desired it. **Commissioner Heavey** said he was missing something and thanked them.

**Chairman Ludwig** called for other questions or comments and asked if a representative was present from Residence East and there were no questions.

**Commissioner Heavey** moved to approve Residence East as an educational organization and authorized to conduct gambling activities in the state of Washington. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with four aye vote.*

## **SEATTLE SKATING CLUB, Edmonds**

**Mr. Johnston** said the Seattle Skating Club was formed in 1937 and has been licensed with the Commission since 1974. The organization serves the community by providing facilities and programs in support of local skating. A 14-member board, including 4 officers, governs the organization. In lieu of a full-time director, the board itself oversees all day-to-day operations. In addition to the support of over 90 volunteers, Seattle Skating Club employs 1 full-time program director and 2 part-time employees totaling 2 FTEs. Overall, the organization has 187 active voting members.

**Mr. Johnston** said that last year more than 500 member skaters took part in a range of program services offered in its Olympic View Ice Arena, which is jointly owned with Seattle Junior Hockey. Classes in various skating disciplines are provided for a full range of skill levels. Additionally, the organization was proud to have had two world famous professional skaters, Johnny Johns and Kathy Dalton, as guest coaches this past year. In terms of recent accomplishments, two of the organization's four precision teams traveled to the National Precision Championships.

**Mr. Johnston** said that overall the organization was in full compliance on all counts. More specifically, Seattle Skating Club exceeded the combined net return requirement of 16 percent incumbent upon a Class "M" bingo license holder by posting an 18.7 percent net return total. Moreover, its year-to-date net return total as of December 31, 1997, is a highly favorable 17.1 percent. The organization also demonstrated significant progress toward its stated purpose by ensuring that both expenditures for program and supporting services remained within required levels. Finally, the organization did not accumulate excessive reserves. Staff recommends

Seattle Skating Club be approved as an athletic organization and authorized to conduct gambling activities in the state of Washington.

**Commissioner Heavey** noted that the gambling manager with a net income of \$300,000 plus supervises 25 employees. He asked why and whether the employees supervised are full-time equivalents. **Mr. Johnston** said he believed they were full-time equivalents.

**Chairman Ludwig** said he wondered if the answer for that is no matter how big or small the operation is, they need at least a certain number of people to conduct a bingo session. **Mr. Johnston** said that was true and that in order for program service delivery, it is people-intensive in terms of having volunteers. **Commissioner Heavey** said he had a little trouble with that.

**Commissioner Forrest** asked if this were people or if this were full-time equivalents in both cases. **Mr. Johnston** said they were FTEs. **Commissioner Heavey** said he has a little trouble with that – 25 people for one bingo player. **Chairman Ludwig** said he wasn't coming up with a solution, but wondering out loud. **Commissioner Heavey** said everybody seemed to be saying that was the case, but he had a little trouble with that because, following that to its logical ad nauseam, if there is one bingo player, it takes 25 people or 27 people. If there are 10, it still takes 25 or 27 people. If there are 600, it takes 25 or 27 people.

**Chairman Ludwig** called for someone on the staff to address that. **Ms. Cass-Healy** said it would depend on how many sessions that one bingo player came to. It depends on how many sessions there are and what workers work what sessions and what shifts and a lot of different factors enter into the figuring of the people who are supervised. **Commissioner Heavey** said his problem with this is that he knows the Commission doesn't allow bingo to be operated just to employ people. He said they operate bingo games to produce income for nonprofit organizations. He wondered what's happening with the \$78,000 one when they have 25 people, if those are full-time equivalents, are they in business just to keep people employed? **Ms. Cass-Healy** said that had been looked at and as long as the organization was meeting their net return requirements and it doesn't look like there's an inurement problem, they left it up to the commissioners to give them direction on what they would like them to do in these instances.

**Commissioner Heavey** said that he recalled that the \$78,000 one wasn't meeting their net income requirements. **Ms. Cass-Healy** said that in that case they would go through the normal process for net return and they would handle it that way in that case. **Commissioner Heavey** said that, after looking into it further, he guessed they were meeting their net income requirements because they only have to have 10 percent combined net return and they have 10.6 percent. **Chairman Ludwig** said they almost doubled that.

**Director Bishop** asked if the staff is certain the 27 people are 27 FTEs. He said he would think 27 FTEs would be quite a few people to run a bingo game.

**Chairman Ludwig** asked if they had bingo games three days a week and that more likely that was 27 people rather than FTEs because they would have to have 27 people working 40 hours. They couldn't do it at three days a week. **Director Bishop** said he agreed and that they used to do some analysis on that and stopped. He said they would look into it and be prepared next time to tell the commissioners how many FTEs there are. He said **Ms. Cass-Healy** was correct in that a few years back there was some desire to look at wages and through discussions they had decided they had the basis for controlling wages through the net income requirement. If they were able to maintain their net income, that was the key issue that they were looking at, what they could actually return rather than what they paid. **Commissioner Heavey** said they had had that discussion on more than one occasion and that he didn't disagree with the approach, but he just happened to notice it.

**Chairman Ludwig** asked if representatives of Seattle Skating Club were present. **Mr. Johnston** said there were none. **Chairman Ludwig** said that what captures his attention is the revenue they're receiving and now here's a licensee north of Seattle that's got almost \$400,000 compared to Northwest Amateur Hockey Association of Mountlake Terrace, which had about a fourth of that. He wondered if this were just a better location or were there fewer licensees within, say, that 10-mile radius of this one. **Ms. Winslow** said there are quite a few large bingo halls in this particular location and Seattle Skating is located right across the parking lot from Seattle Junior Hockey. There's a tremendous advantage to those locations because players get used to going to a certain

locale. When they have a certain bingo hall that's just across the parking lot, they might just as soon go across the parking lot as opposed to down the road some.

**Chairman Ludwig** added that they are meeting on different days so they can go more often during the week.

**Ms. Winslow** said that was a theory. **Chairman Ludwig** noted that Seattle Skating Club is contributing almost \$200,000 into state taxes and federal taxes and it reminded him of what Commissioner Heavey has said about these organizations when they do all the good work they do, that's non-tax dollars at work. He said that in addition, these same people are paying a lot of taxes, too, and that is really noteworthy.

**Commissioner Herbold** moved that the Seattle Skating Club be approved as a athletic organization authorized to conduct gambling activities in the state of Washington. **Commissioner Heavey** seconded the motion. *Vote taken; motion carried with four aye votes.*

## **REVIEW OF FRIDAY'S AGENDA**

**Carrie Tellefson** said tomorrow there is one staff report. The conclusion of the legislative session is today, so they will give the wrap-up tomorrow. There are three rules up for final action, two related to discounted raffle tickets and one housekeeping rule. There are three rules up for discussion. The gambling service supplier definition and two rules related to holding an interest in separate business at a different marketing level. For discussion and possible filing tomorrow are two rules regarding merchandise prizes. One question she would ask is whether they would prefer to hold an executive session today or tomorrow. **Chairman Ludwig** suggested they make that decision at the conclusion of the regular business. He said there was a good chance that they would do that yet today if they continue to move along as they had been.

## **CARD ROOM CONTRACTS UNDER APPENDIX C / HOUSE BANK PILOT TEST**

**Ms. Winslow** said there is an additional card room contract that is up for their action today, the New Phoenix, in the La Center and she asked to add that as Item C.

## **COMMERCIAL INN, Kennewick**

**Ms. Winslow** said Gregory Jones purchased the Commercial Inn tavern, restaurant and card room in Kennewick in March of 1996. They were issued a punchboard/pull tab license and a Class "E" card room license. They entered the Card Room Enhancement Program in August of '96, at which time they were licensed for two tables. They're requesting approval to operate a total of five tables, all of which will be house banked blackjack with a maximum \$25 betting limit.

**Ms. Winslow** said the Commercial Inn's internal controls were reviewed by the agency's special agents. The internal controls consist of administrative and accounting controls, forms, records, surveillance and review of the operation and game rules. Controls in these areas were compared to Appendices B and C, variance was allowed for the utilization of one room as both a cashier's cage and count room provided that the licensee was to commence the build-out of a separate count room. It was determined that the internal controls were adequate and in compliance with the other requirements of Appendices B and C. On February 13, 1998, Special Agents Young and Chittick conducted the pre-operations inspection and completed its checklist. During this review, the nature, size and scope of the gaming operations and controls were compared to the information submitted by the licensee.

**Ms. Winslow** said that, based on this review, it was determined that the licensee's operations were in compliance with the appendices and the internal controls were functional as submitted in their internal control document. They would recommend that the commissioners approve the Commercial Inn's house banking card room test as a level two, phase one operation. She said one of the owners or managers of the operation are in attendance.

**Chairman Ludwig** said he was looking at Appendix C and referred to the definition of level one and two, and

phase one and two where it says someone who has been licensed under this pilot test or under the Card Room Enhancement Program for a period of six months. He asked if the Commercial Inn would be eligible for phase II levels right now. **Ms. Winslow** said that might be poor wording. She said that the way they have been handling that up until now has been that the requirement is six months within the house banking environment. The environment between the Appendix B, which is basically card room activities with primarily poker activity or Washington blackjack, is very different than the environment in the house banking or player funded banking arena. She said there's a lot more control, so to say that the two are very similar would be very difficult. They feel that it would be best that an organization operate in each for six months. **Chairman Ludwig** said it just caught his eye and none of the pending contract parties had mentioned it to him and it was his own reading of that definition.

**Director Bishop** said that his interpretation was that phase two relates to house and/or player banked programs only and does not apply to the enhancement program, only to player-supported banked games, which is the program they have been testing in Mars Hotel. **Chairman Ludwig** said Commercial Inn was not involved in that. **Director Bishop** said that was correct; they were involved in the Enhancement Program for awhile and the player-supported jackpots and increased wagers and those things. **Chairman Ludwig** said Commercial Inn obviously would not fit within that definition that he read. **Ms. Winslow** said that was correct. She said one of her managers pointed out to her that this is defined on page 3 of Appendix C. Phase two means "a gaming operation that has been operating for at least six months within the house and/or player-banked program." That program would be Appendix C only. It wouldn't relate back to the general card room enhancement program.

**Chairman Ludwig** asked if phase two only increases the limits or permits an increase in the maximum limit. **Ms. Winslow** said that was correct. **Greg Jones**, Commercial Inn, said it has been an adventure and he thanked the Commission and staff that are helping them get this far and it will be an interesting adventure continuing from here on out.

**Chairman Ludwig** said that this would be the sixth contract if it's approved today. **Ms. Winslow** asked if the approval of the contract could be contingent on the completion of the build-out on the count room. They found that – and not necessarily for this establishment, but for all the establishments -- it's necessary to have a separate count room. They would like to have that added, since their count room is not completed at this point; they've assured staff that it will be completed July 15, 1998.

**Mr. Jones**, from the audience, said it would be on or around July 15, 1998, and that was contingent upon level two, phase two. His understanding of it was that it was not related to their level two, phase one approval. **Ms. Winslow** said that was not the staff's understanding and she would have to discuss this with him. **Mr. Jones** said that information came to him via Special Agent Tom Young and he said they fully intend to comply with the Commission's rules. **Director Bishop** said that perhaps they should at least say that on the record that phase II would not be approved prior to having a complete separation of the count room and the cage. He wondered if that would work. **Ms. Winslow** said that would be sufficient.

**Chairman Ludwig** said that would be an outside limit of September 12, 1998. If he didn't have it by September 12, when they would otherwise qualify for phase two. **Director Bishop** said then he would be restricted or the agency would bring that forward as a restriction to going to phase two. **Chairman Ludwig** said that would give them two more months than their commitment to do it by about July 15. **Mr. Jones** said they were slated to break ground as of the first of the month and he thought construction would be less than four weeks.

**Chairman Ludwig** asked for a motion or preference by the Commission to approve this contract based on the note in the record that phase II approval would not be granted unless the count room was completed. **Commissioner Heavey** moved as stated by Chairman Ludwig. **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with four aye votes.*

**Chairman Ludwig** noted that, once the contract is signed and the fees are paid, it is effective immediately.

## THE MARS HOTEL, Spokane

**Ms. Winslow** said the Mars Hotel is a commercial restaurant and lounge that commenced operations in 1994. They have a pull tab license, a card room license and a commercial amusement games license. They entered the Card Room Enhancement Program in '96 and they started participating in the player-funded bank card games in June of '97. Request to participate in the house banking test program was submitted in July of '97 and the Mars is requesting approval to operate a total of ten tables all of which would be house banked with a \$25 maximum betting limit.

**Ms. Winslow** said the internal controls submission was reviewed by the agency's agents. The submission consisted of administrative, operational and accounting controls, forms, and records, as well as the surveillance system, equipment specifications, organization of the gaming operation, and game rules. The controls in these areas were compared to Appendices B and C and it was determined that controls were adequate and in compliance with the appendices. Agents conducted a pre-operational inspection and during the pre-operational inspection, the nature, size, and scope of the gaming operations and controls were compared to Appendices B and C of the card room and to the internal controls submitted by the licensee.

**Ms. Winslow** said that based on the review, it was determined that the licensee was in compliance with all the requirements of the appendices and the internal controls were functional as stated in their internal control submission. Therefore, approval to participate in the Commission's house banking card test as a level two, phase one operation is recommended. She mentioned that this ends the original pilot test, which was approved by the Commission. She said the Mars Hotel and the Riverside Inn participated in that test and any future player-funded test will come forward under Appendix C.

**Ms. Winslow** said there were representatives from the Mars Hotel who were present and wanted to address the Commission.

**Chairman Ludwig** asked if he understood her to say they had completed the player-supported test. **Ms. Winslow** said that it was player-funded. She explained that, in 1997, the Commission approved the Mars Hotel to go forward under a pilot test for the player-funded program before they actually had Appendix C drawn up so the Mars Hotel and the Riverside Inn were allowed to go forward under a pilot test that didn't have as many parameters established as the Appendix includes, so that part of the test has pretty much been ended. Anybody coming forward at this point will have to fall under the requirements of Appendix C.

**Chairman Ludwig** said he remembered when that was done about a year ago, but he wanted to know if because of that and because they are not currently operating a player-supported jackpot scheme they don't qualify either for having been in operation under one or the other for six months.

**Ms. Winslow** said that's not as the staff would look at this. She said he might hear to the contrary a little bit later in the day. The staff looked at it as they're participating in the player-funded program and they didn't have the same parameters that they have under Appendix C. It was a little bit more loosely structured and Appendix C has some fairly stringent requirements that put additional controls over the gaming operation that staff would like to see people fall within at least for the six-month period before they increase their wagers to the higher limits.

**Commissioner Herbold** asked if the original arrangement was more loosely structured and there are more stringent requirements now, she wondered if this facility is now operating under the more stringent requirements. **Ms. Winslow** said they have prepared their internal control package; they have their surveillance system up to the standards that they require under Appendix C. **Commissioner Herbold** said she assumed that as they have increased their operation, they have been paying additional license fees and wondered if all that was up to date and paid. **Ms. Winslow** said that was absolutely correct.

**Bob Tull**, an attorney from Bellingham representing the Mars, said that as Director Winslow had mentioned, he had spoken briefly to her about the interpretation that they would advance. He said they didn't need to have an extended argument about it today for some practical reasons he will state later, but it deals with the same notion that the Chairman brought up on his own volition a few moments ago on the prior contract.

**Mr. Tull** said that the Mars Hotel is in a unique situation. At the January '97 Commission meeting, there was discussion about the scope of activities that should be conducted as either player-supported jackpot or eventually

player-funded banking, and the Commission at that time told then-Director Miller and the staff that he was allowed to start a process of looking at a test for essentially player-supported banking. He said that didn't progress very far because during that legislative session, the staff became aware that the Legislature was seriously contemplating a house banking bill that was passed by the Legislature in the '97 Session. Nonetheless, in either March, April, or May, the Recreational Gaming Association came before the Commission and suggested that the Commission authorize the director to allow the Mars to start a special test program that would be available for their inspection at the June meeting in Spokane last year, at which several commissioners attended a demonstration.

**Mr. Tull** said that since that time, the operation has steadily evolved in terms of additional surveillance equipment and capability and all the various controls and the Mars is now asking for evolution into the next phase of this testing program. He said they hoped that in the coming weeks they can satisfy the staff that the Mars ought to have credit for this seven or eight months of existence and operation under the player-funded banking operation. He said they thought that was substantially equivalent and it makes sense that the Mars would be allowed to go to phase II and the higher limits as if it had a contract from the very beginning. He said he'd mentioned earlier that in his view they need not have a protracted debate about it today until the staff is satisfied that the operation is smoothed out, all of the changes are in place and operations are exactly where they want them. He said it was of no use to them to ask them to come for phase II review. They have to be satisfied or else they are simply beating their head against the wall. He said they thought they would be able to show them that the operation is fully carrying out.

**Commissioner Forrest** said if all goes well, then they will be back again to ask for it at a later date. **Mr. Tull** said Commissioner Forrest had guessed his punch line. He said he was sure they would be able to satisfy them, but if not, they would debate that at another time. He said the operation has gone well and that the evolution will show that the experiences of the prior operations have been learned; that the operation is fully in compliance with Appendix C; that there won't be any problem how phase II reviews get conducted. They are willing to help have the Mars be a guinea pig for the earliest possible phase II review. He said staff would have to decide when they were ready to proceed. He said Mr. Saucier was present if they had any questions.

**Chairman Ludwig** asked if there were any questions or comments. No one had any.

**Mr. Tull** said the Mars management appreciates the ongoing cooperation they received from the Commission and from staff and it has been an exciting year in the card room industry.

**Commissioner Heavey** moved to approve the contract for the house banked card room project with Mars Hotel; **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with four aye votes.*

**Chairman Ludwig** asked if they're up and ready to go then. **Mr. Tull** said yes, but getting some of the regulatory and monitoring adjustments in place took a little bit of cooperation from the staff, but it was worth the effort. **Ms. Winslow** said one key point that she wanted to make was that the funds that were generated under player-funded banking were the player's funds – not the house's.

## **THE NEW PHOENIX, La Center**

**Ms. Winslow** said this item can be found in handout packet #2 under tab #17. She said the organization, which is Dragon Slayer, Inc., and does business as The New Phoenix, is a commercial restaurant, lounge and card room that started operations in 1991. On May 24, 1991, The New Phoenix was issued an E-4 card room license and a Class "C" pull tab license. They entered the Card Room Enhancement Program on August 9, 1996, at which time they were licensed for nine card tables. They're requesting approval to operate under the house banked program with a total of ten tables, five of which will operate house banked blackjack with a \$25 maximum betting limit. Poker will be played at the remaining five tables.

**Ms. Winslow** said staff reviewed the internal control submission which consisted of administrative, operational and accounting controls, the forms, records and surveillance systems, equipment specifications, organization as a gaming operation and game rules. The controls in these areas were compared to Appendices B and C and it

was determined that the controls were adequate and in compliance with the appendices. There were some minor variances allowed for Appendix C: drop box transportation, count room characteristics and drop box keys. Staff found that these variances were not material to the operation of the organization or it did not have serious impacts to the internal controls. On February 20, agents conducted a pre-op inspection. During that inspection, the nature, size and scope of the gaming operations and controls were compared to Appendices B and C of the program and to the internal controls submitted by the licensee. All items noted during the pre-op were addressed as of March 9, 1998.

**Ms. Winslow** said approval is recommended for The New Phoenix to participate in the house banking program as a level two, phase one operation. **Chairman Ludwig** pointed out under owner/primary officer, it does list George Teeny, President, but he's president of Dragon Slayer, Inc. **Ms. Winslow** said that was correct; that is their incorporated name. She said they actually do business as The New Phoenix. **Chairman Ludwig** pointed out that this doesn't show Dragon Slayer, Inc.'s name on the form that he noticed. **Ms. Winslow** said the operational agreement is actually under handout packet #1 and tab #1. It does say in the introduction that it's Dragon Slayer, Inc. doing business as The New Phoenix because last month they made a mistake and didn't do that, so they didn't want to make that mistake again. **Director Bishop** said they were allowed three variances to the published internal control standards. They had alternative controls. **Ms. Winslow** said that was correct and the variances were simply because of the set-up or operation at the promises. **Director Bishop** said that the control function, then, was not given a variance the way it was accomplished.

**Ms. Winslow** said that was correct. **Chairman Ludwig** called for any further questions. No one came forward. **Chairman Ludwig** asked if Mr. Teeny would like to add anything. **Mr. Teeny** said everything is going well. **Chairman Ludwig** asked where the name "Dragon Slayer" came from. **Mr. Teeny** said it had to do with a competitor with a place called "Lucky Dragon." **Chairman Ludwig** thanked Mr. Teeny for explaining that to him. He asked if the commissioners had a desire regarding the contract with Dragon Slayer, Inc. or Mr. Teeny.

**Commissioner Forrest** said he thought it should be approved and just subject to that final one little tag-in here that wasn't completed and wasn't critical according to a report because they aren't going to start until April 1 and so he thought it should be that the intentions of an operation that those additional forms be received in hand. **Ms. Winslow** said those forms have been received and inspected by staff agents.

**Commissioner Forrest** moved that the contract with Dragon Slayer, Inc. and Mr. Teeny in La Center be approved. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with four aye votes.*

#### **OTHER BUSINESS/GENERAL DISCUSSION**

**Chairman Ludwig** asked if there were any comments or questions from the public on anything. No one came forward. He said there would be an executive session following. Meeting was adjourned at 3:43 p.m.

#### **EXECUTIVE SESSION**

## WASHINGTON STATE GAMBLING COMMISSION

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### MINUTES COMMISSION MEETING FRIDAY, MARCH 13, 1998

**Chairman Ludwig** called the meeting to order at 9:35 a.m. at the Holiday Inn, SeaTac, Washington. He introduced the WSGC staff and Commission members at the head table.

**MEMBERS PRESENT:** CURTIS LUDWIG, Chairman; EDWARD HEAVEY;  
MARSHALL FORREST; and PATRICIA L. HERBOLD

**OTHERS PRESENT:** BEN BISHOP, Executive Director;  
SHERRI WINSLOW, Division Director, Field Operations;  
CALLY CASS-HEALY, Division Director, Licensing Operations;  
CARRIE TELLEFSON, Division Director, Policy, Planning and  
Support;  
DERRY FRIES, Division Director, Special Operations;  
JONATHAN McCOY, Assistant Attorney General; and  
SUSAN GREEN, Executive Assistant

#### APPROVAL OF THE MINUTES FROM THE FEBRUARY 12-13, 1998, MEETING

**Chairman Ludwig** asked if there were any changes to the minutes from the February 12-13, 1998, Commission meeting held in Olympia. No one had corrections or changes. He said the minutes stand as printed.

#### STAFF REPORTS

##### LEGISLATIVE UPDATE

**Ms. Tellefson** said the legislative session ended yesterday and that she would review quite a few bills, most of which died. There was a bill to increase the levels in fundraising events. It was the fourth year that this bill was presented and it died on the Senate floor. There was a bill to allow joint bingo games and although there was a lot of effort put into that bill, it unfortunately died on the Senate floor as well after going all the way through the process. The Gambling Policy Task Force bill did not move forward either and she said she heard informally that the Governor's Office may be looking into calling this task force himself. She will keep them informed.

**Commissioner Forrest** asked if it was because of lack of steam or if someone was opposed to this bill in principle or if she had a general flavor of what went wrong. He thought it seemed that there should have been smooth sailing. **Ms. Tellefson** said she had heard that some issues came up regarding tribal participants and those that did not have compacts were concerned about not having any participation in the task force. Senator Schow had talked to the Governor's Office and felt that perhaps the Governor's Office would take it on and she thought it was somewhat a matter of timing. There didn't seem to be any major opposition to it as far as she understood it.

**Ms. Tellefson** said one bill that did pass was HB 2724, which requires that this agency, in addition to basically every other agency, to receive an appropriation before they spend money that they receive from fines or penalties. The House version of the bill passed. Initially, the House version did not reference the Gambling

Commission but was amended to include the Gambling Commission. Through some of her informal discussions with legislators, she heard that bill was going to move. There wasn't a lot of reception to deleting out the agency or other agencies, but Director Bishop and she had looked at that and were asked to do a fiscal impact or fiscal note on the bill and didn't feel like it would really impact the agency too much. They have varying amounts of fines each year, but this would just basically require them to go through more hoops before using the money.

**Ms. Tellefson** said one significant victory for them this year was the effort that occurred with SB 6562, which was a bill to reduce the pari-mutuel tax for horse racing and there was an amendment to that bill to take \$2.5 million from the Gambling Revolving Fund to help fund the agricultural fairs. Through the efforts of Senator Schow, as well as licensees including the Washington State Licensed Beverage Association, the Recreational Gaming Association, the Charitable Association and even some of the tribes, that was amended to take the money from the general fund instead. She said they could be really pleased about that. The two Senate confirmations for Commissioner Herbold and Commissioner Forrest did not move although they were passed out of the Commerce and Labor Committee with "do confirm" recommendations, so her understanding was that they just ran out of time.

**Commissioner Herbold** asked about the Gambling Task Force. Since that legislation didn't pass and if the Governor does appoint the task force, she wondered if it were reasonable to assume that he will follow the guidelines that were in that legislation as to who the appointees will be and he will have full discretion to appoint anyone he wants. **Ms. Tellefson** said she would assume that would be true. She said she heard that he would probably take the legislation and follow it, but that is just a rumor. **Chairman Ludwig** asked about the confirmations and whether they will start out the next session with the same "do pass" recommendation from this session. **Ms. Tellefson** said she did not know. She said a typical bill will have a two-year life span and she was not sure if confirmation is the same.

**Chairman Ludwig** said this is the second year of this legislative session. He said that in any event, the next is a longer session and he thought these would have a jump-start because they need things on their docket to act on early. **Ms. Tellefson** said she would check into that and let him know at the next meeting.

## **RULES**

### **RAFFLE RULES**

Amendatory Section WAC 230-20-325 – Manner of conducting a raffle

Amendatory Section WAC 230-20-335 – Members-only raffles – procedures – restrictions

**Ms. Tellefson** said these are up for final action today. Item 3A would allow Class "C" and "D" raffle licensees to offer discounted raffle tickets as long the scheme is determined prior to the sale and the tickets are bundled into booklets and labeled with the nature of the scheme on the front of the booklet. Item 3B would allow for discounted raffle sales in a members-only environment as long as the pricing scheme and audit system is submitted to the director for approval in advance and a single ticket is not more than \$2 and a bundle is not more than \$25. The staff recommends adoption of this package.

**Chairman Ludwig** said it was his impression from the last meeting that the amendments will allow people to do what most of them want to do, but have made it easier so far as regulation and accounting is concerned – or as easy as it can be. **Ms. Tellefson** said that was an accurate characterization. She said the concept of having the bundled tickets was actually initiated by a petitioner. The staff worked out some of the issues with him and in particular the record-keeping requirements and the regulatory system. **Chairman Ludwig** said he has received a few calls from service clubs that wanted to do fundraising and raffles the same as the state lottery.

**Commissioner Herbold** referred to 3A, which says on page 2 in subparagraph 7C, "the organization must have a Class "E" or higher raffle license provided that a Class "C" or "D" may participate if they fulfill the requirements of WAC 230-08-070." She said she was assuming that by saying Class "E" or higher that excludes "C" and "D" because they're lower, but if they comply with 070, she wondered what 070 referred to. **Ms. Tellefson** said she thought that would be their recordkeeping requirements rule. **Director Bishop** said that was the mandatory recordkeeping system at a higher level. This particular authorization is very technical and would require them to get into the higher level record keeping for them to have an audit trail. That was the reason and what Class "E"

and higher already have to do.

**Commissioner Herbold** asked why that wouldn't just say that the organization must have a Class "C" or higher license and comply with all of the recordkeeping requirements that are provided. **Director Bishop** said it could be said that way. **Commissioner Herbold** said that that was basically what is being said. They are excluded except if they comply with the more stringent recording. **Director Bishop** said they could have gone into the 070 probably and amended that to say Class "C" and "D." **Commissioner Herbold** said it wasn't a big thing. She was just confused as to why it said Class "C" and higher except the lower if they do such and such.

**Commissioner Herbold** also referred to the very first section, paragraph 1, where it says, "All raffles shall be conducted." When it says "all raffles," that meant to her -- she takes it literally -- all raffles including members-only raffles. Because a members-only raffle is a raffle, when she reads the section under 3B for members-only it occurs to her that there are some differences like single tickets for \$2, but under 3A a single chance can be up to \$25. So she wondered if there were some inconsistencies by not saying "except members-only raffles as provided in section such-and-such or rule such-and-such." **Ms. Tellefson** said she could certainly reference that. She said members-only was a more specific rule where the first rule is a broader rule. **Commissioner Herbold** said it seemed to her that the broader rule includes members-only and there's confusion as to the fact that it is more specific. **Ms. Tellefson** said that could be amended to say, "except members-only raffles as set forth in WAC 230-23-035"

**Chairman Ludwig** asked if a license is required for a members-only raffle. **Ms. Tellefson** said that was correct unless it was \$5,000 or less. **Chairman Ludwig** said most service clubs at their luncheon have tickets with the meal if it's purchased, or separate raffle tickets for sale and there's a drawing at each weekly luncheon meeting. **Ms. Tellefson** said those would be unlicensed. **Chairman Ludwig** said in that case the term "all raffles" means all licensed raffles. **Director Bishop** said that, in this particular case, all they were talking about is the maximum that is set by statute of \$25 for a raffle chance. He didn't see this as saying they must be \$25; it says "all raffles shall be conducted by selling tickets for not more than \$25." He said that applies to both sections or any raffle anywhere.

**Commissioner Herbold** said under members-only, it cannot exceed \$2. **Director Bishop** said some specific raffles can't exceed that. **Commissioner Herbold** said the cost of single ticket without a discount does not exceed \$2. **Ms. Tellefson** said she believed the intent was that would apply only if it's sold in a bundled package. **Commissioner Herbold** said that was correct and the total cost of the discount package does not exceed \$25. **Ms. Tellefson** said the intent of the amendment was to allow these discounted schemes. She said she it is her understanding that the \$2 applies to the discounted schemes -- the \$2 and then the \$25 per bundle, but she didn't know if in members-only raffles there were any reason why they couldn't charge more than \$2 in another scenario if they're selling single tickets.

**Director Bishop** said there may be a technical error that he hadn't found yet, but subsection (5) of WAC 230-20-335 where it gets down to some specific same price restrictions the \$2 from that particular aspect only applies to raffles that are conducted under subsection (5) of WAC 230-20-335. **Ms. Tellefson** stated that subsection (4) in WAC 230-20-335 states that the value of an individual raffle chance cannot exceed \$25 so Director Bishop is correct in that subsection (5) deals with the discounted bundled tickets scenario. **Commissioner Herbold** asked if that meant that because of that special circumstance that there's no overlap or inconsistency between WAC 230-20-325 and WAC 230-20-335 such that when referring to all raffles under WAC 230-20-325 it does include members-only raffles, but it does not create an inconsistency.

**Ms. Tellefson** said she thought it couldn't hurt to put a reference into the beginning of section 1 and WAC 230-20-325 referring to member-only raffles so people will know to look there. **Commissioner Herbold** said that was what she was thinking about. **Commissioner Forrest** suggested it could say "except as otherwise provided in WAC 230-20-335."

**Commissioner Herbold** also commented with respect to the amendment #1 on WAC 230-20-335 that the very last item in paragraph 8 just drops off and just ends. She wondered if she had a defective copy. **Ms. Tellefson** said if she would turn over the next page, it should say "original," and if she turns over the second page of "original", she would see the rest of it. **Commissioner Herbold** said she had that one, but she didn't know

whether that was the same or not. **Ms. Tellefson** said there were no changes beyond that point. **Commissioner Herbold** said that it went from a different percentage. **Director Bishop** said actually that was page 3 and there was a problem by putting it in the book incorrectly. He said all of the pages of the original are not included. The hole should have been punched on the other side.

**Chairman Ludwig** called for any comments or concerns regarding this rule change. No one had any.

**Chairman Ludwig** called for a vote on the proposed rule regarding raffle tickets and volume discounts on purchasing raffle tickets. He said it was up for final action today, so the record should note that there was no public comment. He suggested they be voted on one at a time. He called for a motion on the amendment to WAC 230-20-325.

**Commissioner Herbold** moved to adopt the amendment. **Ms. Tellefson** asked if they would like the amendment added after the first two words to read "except as otherwise provided in WAC 230-20-335"?

**Commissioner Herbold** accepted the change in wording to her motion. **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with four aye votes.*

**Chairman Ludwig** called for a motion on the adoption of the proposed amendment, Item 3B, to administrative code 230-20-335.

**Commissioner Herbold** moved to adopt. **Commissioner Forrest** seconded the motion.

*Vote taken; motion carried with four aye votes.*

#### **PRICING RESTRICTIONS ON SALE OF GAMBLING EQUIPMENT**

Amendatory Section WAC 230-12-330 – Availability of gambling equipment and related products and services – Prices – Contracts – Discounts – Restrictions – Exceptions

**Ms. Tellefson** said this is up for final action and is a housekeeping change. The Commission voted to delete a provision, but the staff failed to make the deletion, so they are bringing it back to procedurally get this handled consistent with the Commission's intent. Staff recommends approval.

**Commissioner Herbold** said it was her recollection that this came up for discussion for the first time last month and the minutes reflect that it's up for discussion this month and yet it says for adoption. She wondered if she missed a step or is it okay just because this is a housekeeping change to do it in two steps instead of three. **Ms. Tellefson** said she thought this was up for the third time. **Director Bishop** said, as a point of clarification, the requirement is that a rule must be published at least 20 days before they act upon it. It was published in the code reviser's documents February 4, which is well over 20 days, so legally they can act upon it in any case. He said he was fairly certain it was filed by the Commission in January, but in any case, as long as it has been published by the code reviser for at least 20 days, then it can be acted upon.

**Chairman Ludwig** said that, given the fact that it really is just a housekeeping amendment correcting a previous oversight, he would recommend to adopt it today.

**Commissioner Herbold** moved to adopt. She said she didn't have a problem with it as long as the process had been followed. **Commissioner Forrest** seconded the motion. **Chairman Ludwig** said it had been moved and seconded that they adopt the amendment to administrative code 230-12-330 and called for public comment. No one came forward. *Vote taken; motion carried with four aye votes.*

#### **GAMBLING SERVICE SUPPLIER RULES**

Amendatory Section WAC 230-02-205 – Gambling services supplier defined

**Ms. Tellefson** said there is an amended version in the commissioner's packets. She said the differences between last month and this month was that language was added to bring in financiers under the definition of gambling services suppliers which is consistent with the tribal-state compacts as well. Those that provide financing to casino operations are required to be certified in that type of an operation and in this type of an

operation, they would have to be licensed with the exception of a bank, credit union – those types of lending institutions. The other change that was added to this rule applies to pull tab service suppliers who do the record keeping, storage and counting where limited advice is given. This amendment is up for discussion only today and can be found in the handout packet. It has to do with service suppliers and would exempt those who provide limited, non-managerial services for gambling licensees. The other change to this rule is that a \$50,000 threshold was added; a service supplier would not have to be licensed as long as they don't exceed \$50,000 in sales. A threshold was added as opposed to just saying, point blank, none of these people have to be licensed.

**Commissioner Herbold** asked if this amendment took care of the concerns that they had received in several letters written to them by small businesses in eastern Washington who have requested that they actually defer final action until the Commission meeting in Spokane, which is in July. **Ms. Tellefson** said she believed it addressed some of their concerns. The staff will be asking to hold this rule over a little longer than they normally would because Division Director Cass-Healy has been working with that group and has a package coming forward next month. This is meant to be part of that package. It just was on the agenda first and they have been having quite a few meetings with the service suppliers. Director Cass-Healy has been in charge of those meetings and working with them to discuss concerns and to try and work those into the rule package.

**Commissioner Forrest** said the \$50,000 limit is total income, but income is always ambiguous whether it's gross or net, and he thought they ought to be specific. He said if they're talking about that, the gross billings, it ought to say so. He said he thought that was what she meant and make it specific because they don't want to get into an argument with somebody who says, "Well, I only made \$45,000 even though I billed out \$500,000." **Ms. Tellefson** said that was the intent. She said that could be added.

**Commissioner Heavey** said that yesterday there was a discussion regarding people providing the financial resources to play on the Internet. He said he couldn't remember what the technique was and never really understood the technique, but he recalled they were setting up some use of a credit card or something of that nature. Credit card issuers are regulated by the Department of Financial Institutions and by the federal government, so if they have this provision that says "providing services does not include those regulated by that," he wondered if that precluded the Commission from doing anything about people providing a financial ability for somebody to play or to gamble through the Internet in Columbia. **Ms. Tellefson** said Internet gaming is an unauthorized activity, so anybody who would be providing means for someone to gamble on the Internet arguably would be also participating in an unauthorized activity. She suggested that Mr. McCoy add something to this. She thought they would not license them since it's not legal. **Mr. McCoy** said that this rule is specifically addressed to defining gambling services provider for purposes of licensure.

**Commissioner Heavey** said that one of the ways they could have some impact on Internet gambling is by licensing those who provide the services within state that make Internet gambling possible. He said the question he is asking is, if they are precluding the licensing blanket protection for those who are regulated by the bank – whatever those government agencies are – and the Commission is saying, "Well, we don't mean you, but we may mean you if you're providing the ability to provide Internet gambling," providing cyber cash for Internet gambling that is not legal within state, but is legal in Columbia.

**Commissioner Forrest** asked if he is asking if this is too broad or too narrow. **Commissioner Heavey** said he was asking both, but it sounded too broad to him. **Mr. McCoy** said this particular rule specifically requires that they be providing the services to a licensed operator. So, at this stage, this rule would not cover the activities of people who are providing that for non licensed operators. He said that may be an issue they want to revisit. **Commissioner Heavey** thanked him for answering his question.

**Commissioner Forrest** asked if it would be wise for the Commission to draft a rule for discussion and perhaps for filing to kind of work out the bugs that would be aimed at picking up people whose activities were contributing to what they deemed to be illegal gambling. If they did that, they would have at least tried to think through all the ways in which the state of Washington, through its regulations, could hinder the development of a quasi-legal or illegal industry. **Mr. McCoy** said that his concern was the concept of mixing licensure with an unauthorized activity. He said it creates a tricky divide if they were talking about licensing people who would be otherwise conducting illegal activities, sort of blending the line between the two activities. He said right now there's a fairly clear line. Anything that violates the regulations is a criminal offense. Anything that violates the statute is a

criminal offense. But there's an exception to that if it's a licensed activity.

**Commissioner Forrest** said he wasn't thinking it would have to be done as a licensed activity. He was thinking whether they needed to pinpoint a particular area of concern that isn't addressed. At the moment, the staff is satisfied that if the Commission hasn't licensed it, they shouldn't do it. **Commissioner Forrest** was wondering whether they can comfortably rest there, whether they should think about saying and specifically, "you shall not do x." If there was a general prohibition that they can't do that, and it could even be made as a general thing that nothing in these rules shall be deemed to permit such-and-such activity. He said it seemed so complicated and such a moving target that he didn't want to think that when they were confronted with it they would have to start from ground zero to deal with it. He said he was throwing the idea out to be thought about; he was not expecting action at this time. **Ms. Tellefson** suggested to Commissioner Forrest that it might be an appropriate statutory change, and also that they could try to take it forward next year, especially in light of the Internet Gambling Prohibition Act that's before Congress. **Director Bishop** said some informal comments by legislators had been received regarding the Internet so it was at least on some of their minds. The federal legislation that is going forward now might have a big impact on what the Commission might want to do.

**Commissioner Forrest** thought that, without the Commission to review the whole thing, it seemed that a little more responsibility falls on the Commission to at least have legislation in draft form, particularly when the Commission's legislative members are here. If the legislators think that something should be going forward, he feels that the commissioners probably have more expertise than anybody in the state. He didn't think a few remarks by legislators gave him much confidence in the fact that they were going draft, introduce and pass such a bill. If anything is going to be done next time, it would have to be drafted well in advance and have plenty of time to be examined by everybody. Maybe they ought to wait until the Commission's legislative members were here and see if they thought it would be helpful and maybe they would know then what happened to this federal bill that's seems pretty sure to pass. **Director Bishop** agreed that the Commission should be the one to come forward with the legislation. He was merely saying that the legislators had some interest, which means the legislation might have a fairly good chance of getting passed.

**Chairman Ludwig** called for public comments. He noted that written comments were received from people in Chewelah, Veradale, and Spokane that pertain to this rule. They are asking that it be held over. **Director Bishop** said there had been a request from a potential licensee in that area to hold it over. He said they would be coming forward next month with the entire package and he thought that person was referring more to rules that have been discussed and not to this particular rule.

**Chairman Ludwig** called again for any public comments; no one had any comments. He said this matter would be on the agenda again next month at the April meeting in Blaine.

### **INTEREST IN SEPARATE BUSINESS RULE**

Repealed Section WAC 230-30-220 – Interest in separate business involving punchboards and pull tabs at a different marketing level prohibited.

New Section WAC 230-30-225 – Interest in separate business in more than one marketing level

**Ms. Tellefson** said this item is up for discussion only today; 6A is a repealer of WAC 230-30-220 and 6B is a new rule that replaces that basically on the same topic. It applies to pull tab manufacturers, distributors, and operators specifically, and the restrictions on owning an interest in a separate business. There's been a lot of discussion on this rule and there have been some changes from the original version. The rule change allows for a couple of exceptions. A licensed representative who works for a distributor or a manufacturer can also hold an interest in, for instance, a restaurant that has pull tabs so long as there isn't a buy-sell relationship between those two operations. There's a limited exception under certain circumstances where a spouse would not be considered a substantial interest holder in their spouse's business if they're working at these two different marketing levels. That would require the director to look at all the circumstances before approving it. If there were certain agreements in place, perhaps like a separate property agreement, he'd look at those documents and make a determination. Generally, the rule preserves a lot of restrictions in the initial rule and still does not allow a distributor or a manufacturer to own an interest in an operator, except under certain exceptions. The staff recommends further discussion.

**Commissioner Herbold** asked about the new section, WAC 230-30-225, paragraph three. It starts out by asking a question, "If I am a licensed representative for a manufacturer or a distributor, can I have any interest in a licensed operator?" She wondered if the answer to that question would be no, because when she reads paragraph three, it seems like it creates an impossible situation: "If a licensed representative is employed by or holds a substantial interest in a licensed punch board or pull tab operator." If someone works for a bar that sells pull tabs, such licensed representative and their employer, she wondered if that would be the bar or the manufacturer or the distributor. She referred to the part that says, "... representative... is prohibited from conducting business of any type." She asked if employment is business. **Ms. Tellefson** said "representative" is a term of art in the gambling regulations and she thought that might be what Commissioner Herbold was asking. "Representative" would indicate that the employer is the manufacturer or distributor as opposed to the restaurant owner. **Commissioner Herbold** said she was not sure which employer they're talking about when they say "such licensed representative and their employer." **Ms. Tellefson** said that would be the manufacturer or the distributor.

**Commissioner Herbold** went on reading, "...is prohibited from conducting business with the operator" – the bar. Her reading of it was that they can't be employed because employment is conducting business. **Ms. Tellefson** said she thought that might have to be clarified. The intent is that if a licensed distributor also gets a substantial interest in an operator, the employer -- meaning the distributing company -- cannot sell pull tabs to that operation. And at the same time, the operation can't buy pull-tabs from that distributor, so that's the intent and perhaps they need to clarify that.

**Commissioner Forrest** asked if that really meant that after employer, it's really "manufacturer" or "distributor." He said the word "employer" sounded kind of odd when only one person was being talked about. He suggested that it say, "the manufacturer or distributor employing such representatives." That way there couldn't be any misunderstanding. **Director Bishop** asked if they should change "conducting business" to "selling punchboards or pull tab devices". He said that was what they were trying to prevent, trying to make sure there was a break between the supply and operation of punchboards and pull tabs.

**Mr. McCoy** said this is one of the things that are changing with the rule. In the past, a distributor representative could not have any interest in an operation of any sort and this allows, that, on a limited basis, if there's no business between their employer as a licensed representative and the operation with which the operator that they are associated. The other thing about that is that the broader language of conducting business would not have to be changed if they had the proviso that the employer is the manufacturer or distributor, because then the problem of limiting it to particular activities does not appear. There may be other things that are engaging business that are not actually the selling of pull tabs, for example, the flares and things like that.

**Commissioner Herbold** said that the licensed representative and his or her employer, the manufacturer or the distributor, are prohibited from conducting business. She asked if employment between the licensed representative and the bar conducting business, and if the bartender who is also a licensed representative is selling pull tabs, he's conducting business for the operator. She said it seemed to her that an exclusion is set up for a situation which, up front, it is said can't exist. **Mr. McCoy** said he thinks he sees where the confusion is coming from because they have used the term "employer" in that particular rule in two different contexts. "Employed by the bar" or "employed as a licensed representative," and that was where he thought the ambiguity creeps in.

**Commissioner Heavey** said, as he understands it, if a bartender has an interest in a manufacturer, they cannot sell to the bar where he is licensed. **Mr. McCoy** said that was correct. He said it was like the lawyer rule – if there's a conflict of interest with one member of the firm, there's a conflict of interest with the entire firm.

**Commissioner Herbold** said it would make more sense to her if it said, "such licensed representative and the manufacturer or distributor for whom that representative is employed is prohibited from conducting business on behalf of such manufacturer or distributor." She said that would clarify it for her because he's not conducting business with that other link out there, but he is conducting business with such operator in a different capacity.

**Chairman Ludwig** said he thought that still didn't get to the reason why this rule has this language. The bartender may be a licensed representative, but is not going to sell his employer's product – the pull tab – to that

bar, but a colleague may under his suggestion. A colleague may do it and then the bartender promotes that particular merchandise over the others. He asked if the purpose of this was to avoid unfair advantages or unfair competition. **Ms. Winslow** said it was not. She said the whole intent of this rule was to prevent a manufacturer or their employees, or a distributor who might have knowledge of the way the game is made up, from having access to the operation, because there could be potential manipulation of the game. It's not an unfair advantage issue; it's more concern over the manipulation of the product during the sale.

**Commissioner Herbold** asked if it said, "conducting business on behalf of the manufacturer or distributor with whom he is a licensed representative," would that solve the problem of possible collusion? That knowledge of the game, and being able to manipulate it wouldn't be there. **Ms. Winslow** said she was unsure because there were so many different things out on the table at this point. Her concern would be that they couldn't say that other individuals employed by that manufacturer could also sell instead of this individual, because once there is a relationship -- the manufacturer having someone in their employ also owning and operation -- it would be difficult for them to say that another individual could come in and sell that product for that manufacturer to that operator. It would be best if they would not allow that at all.

**Commissioner Forrest** said the way the rule is drafted would not permit what Ms. Winslow was concerned about. He said, if he understood Chairman Ludwig correctly, another salesman for that same manufacturer or distributor can't deal either. The distributor or manufacturer entity can't do business with the operator if the operator is contaminated by employing someone who has a relationship to it, so it wouldn't make any difference whether it was Joe and so his fellow salesman, Mike, can't come in and sell in the business either. **Ms. Tellefson** said there is time to work these bugs out. **Director Bishop** said they would work on that section to see if they could clarify it. **Commissioner Forrest** said to make sure it's known which employer is which.

**Chairman Ludwig** called for any comments regarding other contents of the proposed rule.

**Commissioner Heavey** referred to section (5) and said he assumes that is the basis for which a waiver is granted. He said it's a section with no meaning, because the director has to find no potential for any involvement or influence, which is impossible. The wording needs to be changed. **Director Bishop and Ms. Tellefson** agreed. **Chairman Ludwig** said the gentleman who had a concern about this was not present today.

**Rob Saucier**, Mars Hotel in Spokane, pointed out what could be a typographical error under 6(b), and asked if the packet they had was different. He pointed out that on the agenda where it says "For Discussion" under 6(a) and 6(b), 6(b) is shown as "Interest in separate business in more than one marketing level." It deletes the reference to punchboard and pull tabs. The copy of the proposed new rule does say, "Interest in separate business involving punchboard and pull tabs at a different marketing level prohibited." He asked for a clarification that the only thing they were talking about in terms of different marketing levels is punchboard and pull tabs. **Ms. Tellefson** said that was correct.

**Commissioner Heavey** asked if the rule is written in a way addresses that we're only talking about punchboards and pull tabs. **Ms. Winslow** said that was correct.

## **MERCHANDISE PRIZES**

Amendatory Section WAC 230-30-070 – Control of prizes – Restrictions – Bonus prizes – Displaying – Procedures for awarding  
Amendatory Section WAC 230-30-080 – Punchboard and pull tab series restriction – Prizes, size of game, and location of winners.

**Chairman Ludwig** said this is the rule the Commission had decided in January to hold over for final action and for possible filing. It was Mr. Zaborac's petition that they were not going to take final action on until this meeting because Mr. Heavey wasn't at the Olympia meeting. Mr. Zaborac withdrew the petition just prior to that, but these items are still on today's agenda as alternatives to the withdrawn petition.

**Commissioner Heavey** said he seemed to have been the major participant of this discussion and if Mr. Zaborac has withdrawn it, he would not object to withdrawing this one. **Chairman Ludwig** asked if the staff wished to withdraw Item 7(a) and 7(b). **Ms. Tellefson** said that was correct and since it had not yet been filed, she thought

they could just withdraw it without commission action. **Mr. McCoy** agreed that if it's not filed, it is considered dead.

**Commissioner Forrest** asked if the staff was satisfied that there isn't a problem with these mark ups. **Director Bishop** said he had looked at it pretty thoroughly. Both of the operational divisions – Ms. Cass-Healy and Ms. Winslow's group – looked at it, and while there might be on the surface a perception of unfairness, that it works fine the way it is; they don't see a problem.

**Commissioner Forrest** asked what the largest amount of money is that a prize can be designated. He said he remembered the Mickey Mouse example and he thought there was a difference between Mickey Mouse and a go-cart. He might take a chance on Mickey Mouse for my granddaughter, but buying a \$1,000 go-cart or something would be a little more financial. **Director Bishop** said the current rule allows an operator to expend up to \$500 for a prize. If they spent \$500, it would be marked up to a total prize of \$750 retail value under the current rules.

**Chairman Ludwig** asked if anyone has comments on this today. There was none and in the absence of a motion, he said they would take no action.

**Tony Panagiotu** said he's in support of this issue dying, that if it's allowed to die, then they won't have to expend more energy opposing it.

#### **COMMENTS FROM PUBLIC OR PUBLIC OFFICIALS OR BOTH/GENERAL DISCUSSION**

**Bruce Tower**, with Crowell Law Offices, said his firm represents a number of tribes throughout the United States, but specifically within the state of Washington they represent the Shoalwater Bay Tribe and the Spokane Tribe. He passed out a letter that was written by a David Wynecoop, one of the tribal counsel members of the Spokane Tribe and he asked permission to read it into the record. **Commissioner Forrest** suggested that the letter just be added to the record and he may comment on it if he wishes to. **Mr. Tower** said he had hoped to read it so the audience would be aware of what it says.

**Chairman Ludwig** said the first sentence says, "the Legislature passed a budget item with significant dollars earmarked to study casino gambling at live racetracks," and said they had not heard about that this morning. **Ms. Tellefson** apologized that she did not cover this earlier. She said that there was an amendment to the Senate's budget by Representative Clements to appropriate money from the Horse Racing Commission to study the possibility of expanding other gambling activities at racetracks. That amendment was adopted and became part of the budget. **Chairman Ludwig** said it didn't say who had jurisdiction to regulate those other gambling activities. **Ms. Tellefson** said the second paragraph of this letter asks whether the Commission had anything to do with this proposal. She said the Commission did not even know about it. It came up at 10:30 at night on the Senate floor and she was watching TVW and happened to see Representative Clements stand up and propose this amendment, so it was nothing that was discussed in a public forum beforehand or with the staff.

**Commissioner Heavey** said if they requested that of the commissioners at an open meeting, he would respond that he didn't know. **Mr. Tower** said this was something they had just learned about very recently, in the last couple of days. **Chairman Ludwig** said it occurred to him that neither the Legislature nor the voters of this state through the Initiative process are likely to authorize casinos at Emerald Downs, Yakima, and Spokane; that would be three more, but at the same time, anybody adjacent to or in close proximity could have a card room at those kind of locations, but he doesn't think there's a lot to worry about.

**Mr. Tower** said his understanding of this legislation indicates that they want to have the same types of activities that are available in Washington State and to compacted tribes available at racetracks. He said it was confusing to the tribes because, on one hand, the state is constantly saying there needs to be a lid on the expansion of gambling because it's expanding way too fast; and they've talked about establishing a task force in order to stop that. Yet, on the other hand, they're studying ways to put these same games at casino racetracks and they've opened up the mini-casinos at card rooms now. There's a lack of understanding as to how they're putting a lid on gambling on one hand and on the other hand the state seems to be expanding it all the time.

**Commissioner Forrest** said the horseracing industry seems to have more legislative sympathy and support. The mere fact that this could pass is indicative of that and he said he did not share Chairman Ludwig's confidence that nothing will come of it. **Chairman Ludwig** said he appreciated that; he said he was speaking only for himself when he said that. **Mr. Tower** said that the Legislature seems to have great sympathy for the horseracing industry and each and every one of the last three or four sessions, it passed significant legislation designed to help the horseracing industry.

**Chairman Ludwig** said he was aware of that and recalled where those racetracks were in the state -- Spokane, Yakima and King County -- all of which have a large number of legislators, as opposed to the rest of this state, and that is just one factor to give them strength, but he still would personally be surprised if anything came of this. He appreciated the fact that Mr. Tower was bringing this issue to the Commission's attention so that they could be aware. **Mr. Tower** said the Spokane Tribe is glad to make the Commission aware of these issues and that the Gambling Commission has a great amount of input into these studies or into the task force if the Governor is to establish that. They simply want the Commission to be aware of the negative impact that it is going to have on the gaming operations of tribes throughout the state. **Chairman Ludwig** thanked him for bringing the matter to their attention.

**Chairman Ludwig** called for any other comments today. **Director Bishop** said that Mr. McCoy has requested a short executive session if there's time. **Chairman Ludwig** said there would be time to do that.

**Chairman Ludwig** said Commissioner Herbold and he had been discussing the fact that this would have been a good month to have a one-day session, since the meetings have been short. **Chairman Ludwig** said there have been only two or three card room contracts per meeting. He wondered if that would be what they could expect as they move along. **Ms. Winslow** said the staff expected a large increase in the next month's agenda, but as she had said in the past, when they get to the last few weeks in the process, some of the contract participants drop off. She said that at this point and time there were quite a few people coming forward -- about five or six.

**Commissioner Forrest** asked if a firm decision had been made on the cancellation of the May meeting. **Chairman Ludwig** confirmed that the May meeting had been canceled. He said they originally had planned to meet in Spokane in May to get exposure in eastern Washington. That meeting was canceled and moved a later meeting from one city to Spokane in July. Next month's meeting would be in Blaine at Semi-ah-moo. He said some had wondered how they could afford to stay at Semi-ah-moo. He wanted the record to show that they get better prices there than they get anywhere on the West Side. And also he wanted the record to show that they could not afford to go to downtown Seattle. He said that Sea-Tac or Bellevue is as close as they can get.

**Chairman Ludwig** adjourned the meeting at 10:50 a.m. and said there would be a brief executive session followed by formal adjournment.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Green  
Executive Assistant